IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

ST/CO/86/2009 and ST/425/2009

(Arising out of Order-in-Appeal No.37/2009-ST dated 8.5.2009 passed by the Commissioner of Central Excise (Appeals), Coimbatore)

Commissioner of Central Excise, Coimbatore Appellant

Vs.

M/s. Annamalai Retreading Company Respondent

Appearance

Shri K.P. Muralidharan, AC (AR) for the Appellant
Shri M. Karthikeyan, Advocate for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing / Decision: **02.08.2017**

Final Order No. 41504/2017

Per Bench

The respondents are engaged in tyre retreading services and were registered with the Service Tax Department. A show cause notice was issued alleging that they have wrongly availed the benefit of Notification No. 12/2003-ST dated 20.6.2003 and have not paid service tax on the full amount of taxable value of services. After adjudication, the original authority confirmed the demand along with interest and also imposed penalties for the period from 16.6.2005 to 31.3.2007. In appeal, the Commissioner (Appeals) set aside the adjudication order. Hence Revenue has filed this appeal.

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2. At the time of hearing, the learned counsel Shri M. Karthikeyan submitted that the respondents had discharged the service tax liability after availing the benefit of Notification No. 12/2003-ST dated 20.6.2003 whereby the respondent is eligible to deduct the cost of the raw materials consumed for providing the services. The respondent has thus deducted the cost of treading, retreading etc. from arriving at the taxable value of services for discharging the service tax liability. The issue whether the respondent is eligible to avail the benefit of 12/2003-ST has been settled by the Hon'ble Apex Court in the case of Safety Retreading Company – 2017-TIOL-28-SC-ST. That this Tribunal in the respondent's own case vide Final Order No. 40197/2017 dated 9.2.2017 had followed the judgment and set aside the demand.

3. In view of the issue having been settled by the Hon'ble Supreme Court, following the same, we find that the impugned order passed by the Commissioner (Appeals) calls for no interference and the appeal filed by Revenue is dismissed. The cross-objection filed by the respondent also stands disposed of accordingly.

(Operative portion of the order was pronounced in open court)

(Madhu Mohan Damodhar) Member (Technical)	Sulekha Beevi **(Sulekha Beevi C.S.)** Member (Judicial)

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Customs Excise & Service Tax Appellate Tribunal

सत्यमेव जयते

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2/1/18

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